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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/867,647	05/31/2001	Steven William Parkinson	6502.0344-00	7986

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EXAMINER

TIV, BACKHEAN

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/867,647

Applicant(s)

PARKINSON, STEVEN WILLIAM

Examiner

Backhean Tiv

Art Unit

2151

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-52 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Detailed Action***

Claims 1-52 are pending in this application.

***Claim Objections***

Claim 19 is objected to because of the following informalities: The number (iv) should be deleted, there are no preceding numbers. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-3, 5-23, 25-39, 41-52 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,438,592 issued to Killian.

As per claim 1, Killian teaches a system comprised of a plurality of client devices, each operating a browser application, and a host device operating a server application, a method for managing service by the server application, comprising (Fig. 1, col. 3, lines 24-33):

receiving, by the server application from the browser applications, requests for services (col. 3, lines 23-32, Abstract);

determining for each request a quality of service reflecting an ability of the

server application to respond within a predetermined time based on a type associated with the request(Abstract, col.3, lines 33-46); and returning, by the server application to at least one browser application, an appointment reflecting a time for the browser application to send another request to the server application for processing(Abstract, col.3, lines 47-62).

Claims 2,3,11,12,21,22,23,31,32,35,37,38,39,47,48 are rejected for the same reasons as claim 1(see above).

As per claim 5, Killian teaches an a system having a client and a server, a load managing method comprising the steps, performed by the client, of(Fig.1): transmitting a request for service to a server, and receiving from the server an appointment cookie reflecting a time at which the server will be available to process the request(col.8, lines7-56).

As per claim 6, the method of claim 5, further comprising: enabling display of the appointment cookie(col.3, lines 34-63, col.8, lines 39-56).

As per claim 7, the method of claim 5, further comprising: re-transmitting the request to the server at or after the time reflected by the appointment cookie(col.8, line 39-col.9, line 35, col.10, lines 40-49).

As per claim 8, the method of claim 5, further comprising: automatically without user intervention re-transmitting the request to the server at or after the time reflected by the appointment cookie(Abstract, col.10, lines 40-49).

Claims 9, 10,16,25,29,30,41,45,46 are rejected for the same reasons as claim 5(see above).

Claims 26, 42 are rejected for the same reasons as claim 6(see above).

Claims 27, 43 are rejected for the same reasons as claim 7(see above).

Claims 28, 44 are rejected for the same reasons as claim 8(see above).

As per claim 13, Killian teaches a method for managing load on a process operating in a server computer, comprising(Fig.1): receiving a request for a service to be performed by the process(Abstract); determining whether the process is able to perform the requested service subject to a predetermined level of quality(col.3, lines 47-62); and creating an appointment indicating that the process is not able to perform the requested service subject to a predetermined level of quality and reflecting a time at which it is determined that the process will be able to perform the requested service subject to a predetermined level of quality(col.8, line 7-col.9, line 35).

As per claim 14, the method of claim 13, wherein the predetermined level of quality represents a time factor(col.3, lines 47-62).

Claims 15,17,33,36,49,51,52 are rejected for the same reasons as claim 13(see above).

Claims 34, 50 are rejected for the same reasons as claim 14(see above).

As per claim 18, the system of claim 17, wherein said client (i)receives the appointment from said server(Abstract), (ii)determines based on the appointment when to send to said server a new request based on the request(col.3, lines 47-62), and (iii) sends the new request to said server based on a result of the determination(col.10, lines 40-49).

As per claim 19, the system of claim 18, wherein said client includes in the new request information reflecting the appointment(Abstract).

As per claim 20, the system of claim 18, wherein said client

- (i) receives the appointment from said server(Abstract),
- (ii) includes in the new request information reflecting the appointment(Abstract, col.10, lines 40-49).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4,24,40 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,438,592 issued to Killian in view of US Patent 5,990,969 issued to Bril.

Killian teaches all the limitations of claim 3, however does not explicitly teach as per claim 4, comparing requests with prior requests based on the same type.

Bril teaches comparing requests to other types of requests(col.5, lines 25-39).

Therefore it would have been obvious to one ordinary skilled in the art at the time of the invention to modify the teachings of Killian to compare requests to other requests as taught by Bril in order to determine with requests has a higher priority than other requests(Bril, col.5, lines31-33).

One ordinary skilled in the art would have been motivated to combine the teachings of Killian and Bril in order to provide a method of distinguishing which elements to download first(Bril, col.5, lines 31-33, Killian, col.3, lines 34-45).

Claims 24, 40 are rejected for the same reasons as claim 4(see above).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Backhean Tiv whose telephone number is (571)272-3941. The examiner can normally be reached on 9 A.M.-12 P.M. and 1 -6 P.M. Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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2151  
11/16/04

  
ZARNI MAUNG  
PRIMARY EXAMINER